



AUSTRALIAN CAPITAL TERRITORY

Juries (Amendment) Ordinance 1989

Ordinance No. 61 of 1989

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 14 December 1989.

BILL HAYDEN
Governor-General

By His Excellency's Command,

MICHAEL TATE
Minister of State for Justice

An Ordinance to amend the *Juries Ordinance 1967*

(Ord. 51/89)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Short title

1. This Ordinance may be cited as the *Juries (Amendment) Ordinance 1989*.¹

Principal Ordinance

2. In this Ordinance, “Principal Ordinance” means the *Juries Ordinance 1967*.²

Interpretation

3. Section 6 of the Principal Ordinance is amended—

- (a) by omitting from subsection (1) the definitions of “the Judge” and “the Roll of electors for the Territory”; and
- (b) by inserting the following definitions:

“ ‘Judge’ means—

- (a) a Judge of the Supreme Court appointed under subsection 7 (1) of the *Australian Capital Territory Supreme Court Act 1933* of the Commonwealth; or
- (b) an additional Judge of that Court appointed under subsection 7 (2) of that Act;

‘Roll of electors for the Territory’ means the Roll of electors for the Territory required by section 81 of the *Commonwealth Electoral Act 1918* of the Commonwealth;”.

Reduced number of jurors

4. Section 8 of the Principal Ordinance is amended—

- (a) by omitting subsection (1); and
- (b) by omitting from subsections (2), (3) and (4) “other than a trial for a capital offence”.

Exempt persons

5. Section 11 of the Principal Ordinance is amended—

- (a) by omitting from subparagraph (a) (i) “*Jury Exemption Act 1905-1950*” and substituting “*Jury Exemption Act 1965* of the Commonwealth”; and
- (b) by adding at the end of subparagraph (a) (ii) “of the Commonwealth”;

- (c) by omitting from subparagraph (a) (iii) “1912-1966” and substituting “1912 of the Commonwealth”;
- (d) by adding at the end of subparagraph (a) (iv) “of the Commonwealth”;
- (e) by omitting from paragraph (h) “1930-1967” and substituting “1930”;
- (f) by omitting from paragraphs (i) and (j) “1931-1967” and substituting “1931”;
- (g) by omitting from paragraph (k) “1965-1967” and substituting “1965”;
- (h) by omitting paragraph (n) and substituting the following paragraph:
 - “(n) police officers;”;
- (i) by omitting from paragraph (o) “a fire brigade established under the *Fire Brigades Act 1957-1966* of the Territory” and substituting “the Australian Capital Territory Fire Brigade”; and
- (j) by omitting from paragraph (q) “1915” and substituting “1915 of the Commonwealth”.

Challenges at criminal trials

6. Section 34 of the Principal Ordinance is amended—

- (a) by omitting paragraph (1) (a);
- (b) by omitting from paragraph (1) (b) “if the trial is for an offence other than a capital offence—”;
- (c) by omitting paragraph (2) (a); and
- (d) by omitting from paragraph (2) (b) “if the trial is for an offence other than a capital offence—”.

Offences by jurors

7. Section 41 of the Principal Ordinance is amended by omitting “One hundred dollars” and substituting “\$200”.

Personation of jurors

8. Section 43 of the Principal Ordinance is amended by omitting the penalty at the foot of the section and substituting the following penalty:

“Penalty: \$1,000 or imprisonment for 6 months.”.

Insertion

9. After section 44 of the Principal Ordinance the following section is inserted in Part IX:

Unlawful dismissal etc. of employees for jury service

“44AA. (1) An employer shall not dismiss or injure an employee, or alter an employee’s position to the prejudice of the employee, because the employee is summoned to serve as a juror.

Penalty—

- (a) in the case of a natural person—\$3,000; or
- (b) in the case of a body corporate—\$15,000.

“(2) If all the elements of the offence other than the reason for the employer’s action are proved, the onus of proving that the dismissal, injury or alteration was not because the employee was summoned to serve as a juror is on the employer.

“(3) Where an employer is convicted under subsection (1), the court may make either or both of the following orders:

- (a) an order that the employer pay to the employee a specified sum by way of reimbursement for the salary or wages lost by the employee;
- (b) an order that the employee be reinstated in his or her former position or in a similar position.

“(4) An order under paragraph (3) (a) is enforceable as if it were a judgment given or entered on a claim under the *Magistrates Court (Civil Jurisdiction) Ordinance 1982*.

“(5) An employer shall comply with an order under paragraph (3) (b).

Penalty—

- (a) in the case of a natural person—\$3,000; or
- (b) in the case of a body corporate—\$15,000.

“(6) Where an employer fails to comply with an order under paragraph (3) (b), the amount of salary or wages that would, but for the failure, have been payable to an employee in respect of the period of the failure is recoverable as a debt due to the employee by the employer.”.

Separation of jury at criminal trials

10. Section 50 of the Principal Ordinance is amended by omitting “other than a trial for a capital offence”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 20 December 1989.
2. No. 47, 1967 as amended by No. 65, 1977; No. 46, 1978; No. 39, 1979; No. 37, 1981; Nos. 6 and 60, 1983; No. 8, 1984; No. 67, 1985; Nos. 21 and 25, 1989.